

1 Shelly Beard
2 Plaintiff *in Propria Persona*
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

James A. Byrne U.S. Courthouse 601 Market Street Philadelphia, PA 19106

SHELLY BEARD
PLAINTIFF,

v.

CASE NO. _____

PHILADELPHIA CORPORATION FOR AGING
DEFENDANT.

/

COMPLAINT & DEMAND FOR JURY TRIAL

Plaintiff, Shelly Beard ("plaintiff"), files this Complaint against Defendant, PHILADELPHIA CORPORATION FOR AGING ("defendant") and states as follows:

INTRODUCTION

1. This is a claim by plaintiff Shelly Beard against her former employer for the violation
2 of the Americans with Disabilities Act and Amendments Act ("ADA and ADA-AA"), 42 U.S.C.
3 § 12101, et seq., for discrimination and retaliation on the basis of disability, and for
4 prohibited actions taken on the basis of this disability under the "regarded as" prong; and
5 under the "record of" prong; and for declaratory and injunctive relief under Title I of the
6 Americans with Disabilities Act as implemented under 29 CFR Part 1630, *et sequitur*.

2. Accordingly, plaintiff brings this action pursuant to the ADA and ADA-AA to recover all
3 available relief in law, including but not limited to: (i) a judgment from this Court that
4 defendant's actions were unlawful; (ii) back pay; (iii) compensatory damages in whatever
5 amount she is found to be entitled; (iv) reinstatement, or in the alternative front pay in the
6 event reinstatement is not practical; (v) an equal amount as liquidated damages, other

1 monetary damages; (vi) an award of costs and reasonable court fees; and (vii) punitive
2 damages to the extent available; (viii) pre-judgment and post-judgment interest; and (ix) a
3 jury trial on all issues so triable.

4 **JURISDICTION AND VENUE**

5 3. This court has original and exclusive jurisdiction over plaintiff's claims pursuant to 28
6 U.S.C. §1331, in that the matters in controversy are brought pursuant to Title I of the
7 Americans with Disabilities Act of 1990 and the ADA and ADA-AA of 2008; 42 U.S.C.
8 §12101 and 42 U.S.C. §12112(a), (b) and (d)(4) as it pertains to "Discrimination"; as
9 implemented by 29 CFR Part 1630.14(b)(3), (c) & (d) as it pertains to adverse employment
actions, employers and medical examinations and interventions.

10 4. Venue is proper in this judicial district under 28 U.S.C. §1331 because defendant
11 does business in this judicial district and the acts complained of took place in this judicial
12 district.

13 5. Plaintiff timely filed a charge of Discrimination against the defendant with the Equal
14 Opportunity Employment Commission (EEOC) on or about the date of March 4, 2022.

15 6. On or about May 19, 2022, the EEOC issued plaintiff a Dismissal and Notice of Right
16 to Sue against defendant with regards to this matter. A copy of the Right to Sue letter is
17 attached as Exhibit A – 14.

18 7. Plaintiff has exhausted the administrative remedies available to her.

19 8. Plaintiff files her complaint within 90 days of the EEOC's issuance of the notice of
20 right to sue.

21 **PARTIES**

22 9. Plaintiff, Shelly Beard, resides in Philadelphia, Pennsylvania at the address of 134
23 East Colonial Street and is a qualified individual with a disability within the meaning of the
24 ADA and ADA-AA.

25 10. Plaintiff is an employee of the defendant, which is a "covered entity" within the
26 meaning of the ADA and ADA-AA.

- 1 **11.** Defendant's principal place of business is located at 642 North Broad Street,
2 Philadelphia, Pennsylvania 19130.
- 3 **12.** At all times material to this action, Plaintiff is an "employee" of defendant within the
4 meaning of the ADA and ADA-AA.
- 5 **13.** At all times relevant, defendant is an "employer" as defined by 42 U.S.C. 12111(5).
- 6 **14.** Since approximately April of 2012, plaintiff has been employed and currently works
7 as a Health Promotion Specialist.
- 8 **15.** At all times material to this action, plaintiff is perceived as having a disability as
9 defined by 42 U.S.C. §12102 (1) (2) and (3).
- 10 **16.** At all times material to this action, plaintiff is engaged in protected activity under the
11 ADA, such as working, breathing, walking, communicating.
- 12 **17.** At all times material to this action, plaintiff is subjected to adverse actions prohibited
13 under 42 U.S.C. §12102 (1) (2) and (3), because of perceived physical impairments whether
14 or not these perceived impairments limited or were perceived to limit major life activities.
- 15 **18.** Plaintiff is mis-classified as having an impaired immune system and an impaired
16 respiratory system by defendant;
- 17 **19.** Plaintiff is not allowed full access to work in-person because of defendant's
18 discriminatory perceptions, policies and procedures.
- 19 **20.** At all times material to this action, plaintiff is a "qualified individual" under the ADA
20 and ADA-AA.
- 21 **21.** At all times material to this action, plaintiff is a person who meets the legitimate skill,
22 experience, education, or other requirements of the employment position that plaintiff holds.
- 23 **22.** At all times material to this action, plaintiff can/could perform the "essential functions"
24 of the position plaintiff holds with or without reasonable accommodation.
- 25 **23.** At all times material to this action, defendant is/was an employer covered by the ADA
26 and ADA-AA in that it employs more than 15 employees.
- 27

24. At all times material to this action, plaintiff is an employee entitled to be free from discrimination on the basis of a perceived disability under the ADA and ADA-AA.

25. Additionally, defendant is not eligible for any exemption under the ADA and ADA-AA, and, indeed, did not seek or obtain an exemption.

PLAIN STATEMENT

26. Defendant's policies and procedures demonstrate that it discriminates against plaintiff based upon perceived disability. When plaintiff objected and gave notice to the defendant that she was a qualified individual with disability who was being "regarded as" having a disability the defendant continued to impose accommodations; including but not limited to: medical examinations, medical interventions including mask-wearing, testing and experimental injections; without first conducting an individualized assessment to determine if she is a direct threat. Defendant uses policies and procedures to harass, isolate, segregate, limit, classify, deny equal access and impose non-job-related medical exams and inquiries upon plaintiff. Defendant also retaliates against plaintiff by interfering with her rights, imposing punitive measures including isolation and medical examinations, threatening to withhold her pay, which is prohibited under the ADA and ADA-AA.

STATEMENTS OF FACT

27. The Americans with Disabilities Act Amendments Act (“ADA and ADA-AA”), 42 U.S.C. § 12101, et. seq., as amended is a remedial statute aimed at addressing and providing remedy in response to Congress’s findings that discrimination against individuals with physical or mental disabilities persist in critical areas like employment, and our nation’s goals with respect to individuals with disabilities is to assure equality of opportunity and participation. 42 U.S.C. § 12101(a)(1)-(8). The ADA and ADA-AA is meant to protect qualified employees, like plaintiff, from discrimination, harassment and retaliation in the workplace on account of a real or perceived mental or physical disability. 42 U.S.C. § 12112.

28. On the date of February 15, 2022 the plaintiff gave notice to the defendant that she was regarded as having a disability.

1 **29.** The plaintiff did not request any reasonable modification or accommodation to the
2 defendant's so-called "COVID" policy.

3 **30.** The defendant is making a record of this disability by mis-classifying plaintiff as
4 substantially limited with impaired immune and respiratory systems affecting her ability to
5 perform major life activities in the workplace including working, communicating with others,
6 performing manual tasks, talking, walking, breathing and others expressed in the ADA itself,
7 but not limited thereto, without the use of mitigation measures.

8 **31.** Plaintiff on many occasions duly noticed defendant of her good faith opposition to
9 discriminatory policies and procedures.

10 **32.** While the defendant ignorantly and illegally ignored and denied plaintiff's notice that
11 she as regarded as having a disability, and that she was a qualified individual with a
12 disability, by continuing to impose its discriminatory policies upon the plaintiff in violation of
13 the ADA and ADAAA.

14 **33.** Individuals who give notice that they are a qualified individual with a disability,
15 because they are regarded as having a disability, are considered as having a disability
16 under the ADA.

17 **34.** At all times material to this action plaintiff was engaged in the exercise and
18 enjoyment of one or more major life activities protected under the ADA, such as working,
19 breathing, walking.

20 **35.** Under the ADA and ADA-AA an employer may not require an individual with disability
21 to accept accommodations which such qualified individual chooses not to accept. 29 CFR
22 1630.9 (d). This is especially disturbing when accommodations are imposed for a perceived
23 and unproven disability which has no basis in fact.

24 **36.** Under the ADA and ADA-AA an employer is required to conduct an individual
25 assessment to determine whether an employee poses a 'direct threat' before it can impose
26 any measures upon the employee. 29 CFR §1630.2 (r)

37. Under the ADA and ADA-AA it is considered discrimination on the basis of disability if the employer limits, segregates, or classifies an employee in a way that adversely affects such employee because of the disability. 42 USC § 12112

38. Under the ADA and ADA-AA an employer who discharges, disciplines, or discriminates against an employee in the manner described in subsection (a) is considered to have violated 29 CFR §1630.4 (a)

39. Under the ADA and ADA-AA employers are prohibited from to use standards, criteria, or methods of administration, which are not job-related and consistent with business necessity. 29 CFR §1630.7

40. Under the ADA and ADA-AA employers are prohibited from retaliating against individuals who oppose discriminatory activities or who make charges, testify, assist, or participate in any manner in an investigation, proceeding or hearing. 42 U.S.C. § 12203 and 29 CFR Parts 1630.12(a) and (b) and Parts 1630.13(b) and Part 1630.14(c) and shall be subject to the enforcement provisions relevant to such violations set forth in sections 42 U.S. Code § 12117, 42 U.S. Code § 12133 and 42 U.S. Code § 12188.

41. Under the ADA and ADA-AA employers are prohibited from requiring medical examinations or making disability-related inquiries of employees unless such examination or inquiry is shown to be job-related and consistent with business necessity; 42 U.S.C. §12112(d)(4); 29 CFR §1630.13 (b).

42. Under the ADA and ADA-AA, employers are prohibited from sharing non-job-related medical classification without any regard to confidentiality; 29 CFR §1630.14 (c).

43. Plaintiff may proceed under the “regarded as” prong and the “record of” prong and this court has jurisdiction under the “regarded as” prong of the ADA and ADA-AA.

GENERAL ALLEGATIONS

44. At all times material to this action, defendant failed to comply with its duty under the ADA and ADA-AA.

1 **45.** On the date of February 15, 2022, the plaintiff gave notice to the defendant that she
2 is a qualified individual with a disability. At that moment, the plaintiff was in a protected
3 class and engaged a protected activity, and not required to participate in the defendant's so-
4 called "COVID" policy under 29 CFR Part 1630.9(d), unless the defendant establishes an
5 exemption or exception to its legal duty to comply with the Americans with Disabilities Act.
6

7 **46.** Exercising this right was a protected activity and the defendant's so-called "COVID"
8 policy was not equally or universally applied to the plaintiff because she had given notice of
9 a disability and is therefore in a protected class and engaged in a protected activity.
10

11 **47.** Defendant imposed non job related medical examinations and interventions and
12 made non job related medical inquiries of the plaintiff which were not consistent with
13 business necessity.
14

15 **48.** Defendant misclassified plaintiff as substantially limited and refused to allow plaintiff
16 to perform several major life activities without using mitigation measures.
17

18 **49.** Defendant was required to either provide equal access or claim exemption to the
19 ADA and ADA-AA and it did neither; thus defendant failed to perform its duty under the ADA
and ADA-AA.
20

21 **50.** Defendant discriminated and retaliated against plaintiff for making a complaint that
22 she was being regarded as disabled, thus asserting her entitlement to equal access under
23 the ADA and ADA-AA.
24

25 **51.** The defendant failed to conduct any individualized assessment¹ establishing that
plaintiff's good faith refusal to participate in its so-called "COVID" policy is a direct threat;
however, defendant denies that the plaintiff is regarded as having a disability and then
denies that the plaintiff is a qualified individual with a disability and continues to demand
that plaintiff participate in its "health control measures" or accommodations such as mask-
wearing, medical examinations, inquiries and treatments under Emergency Use
Authorization ("EUA").
26

27 1 EEOC Technical Manual 2.2 (c) "...the Supreme Court has stated and the Congress has reiterated,
28 "society's myths and fears about disability and disease are as handicapping as are the physical limitations that
flow from actual impairments." The legislative history of the ADA indicates that Congress intended this part of
the definition to protect people from a range of discriminatory actions based on "myths, fears and stereotypes"
about disability, which occur even when a person does not have a substantially limiting impairment."

52. Denying that the plaintiff had a disability because she is regarded as having a disability is not a defense to violating the Americans with Disabilities Act.

53. It is not relevant whether or not the defendant denies regarding the plaintiff as having a disability, the fact is that she was regarded as, and gave notice to the defendant that she was regarded as having a disability, irrespective of the defendant's bad faith and contradictory denial of the same.

54. Ignoring proper notice that the plaintiff is regarded as having a disability and that she is a qualified individual with a disability is not a defense to violating the Americans with Disabilities Act.

55. Ignorance of the law is not a defense.

56. Rather than providing equal access or proving any exemption to complying with the ADA and ADA-AA, defendant embarked on a series of adverse employment actions against plaintiff which were designed to deter plaintiff's good faith opposition to the policies and procedures.

57. Defendant's policies and procedures segregated the plaintiff based on physical condition.

58. Defendant's policies and procedures limited plaintiff's access to the workplace based on perceived disability.

59. Defendant's policies and procedures refused to allow plaintiff to perform her employment duties without using mitigation measures.

60. Defendant's policy and procedures limited plaintiff's right to invoke ADA and ADA-AA protections by refusing to recognize that plaintiff could claim a reason under Federal law for refusing to comply with the policy and procedures. Instead, defendant insisted that plaintiff could only claim a "medical" or "religious" exemption, which is interference with plaintiff's rights under the ADA and ADA-AA.

61. Defendant continued to engage in adverse employment actions, such as threatening with termination, when plaintiff claimed the right of informed consent and the right to refuse

1 to take part in clinical trials and noticed defendant that all the imposed mitigation measures
2 fall under an EUA period.²

3 **62.** Defendant's violation of the ADA and ADA-AA was not in good faith and was willful,
4 and plaintiff sustained damages as a result of defendant's conduct including past and future
5 earnings, lost opportunities and benefits, liquidated damages, emotional distress, and
6 reasonable attorneys' fees and or costs.

7 **63.** Plaintiff re-alleges each statement from the affidavit herein.

8
9 **COUNT I**

10 **DISCRIMINATION UNDER THE ADA and ADA-AA FOR PERCEIVED DISABILITY**

11 **64.** Plaintiff incorporates each of the pertinent statements of fact above; and the pertinent
12 allegations contained in the paragraphs 1 through 63 and the plaintiff's supporting affidavit
13 which is also re-alleged and incorporated herein by reference.

14 **65.** Title I of the ADA prohibits employment discrimination on the basis of disability in all
15 aspects of employment, in 29 CFR § 1630 *et sequitur*; and particularly §1630.4; § 1630.5.

16 **66.** Plaintiff is a qualified individual under the ADA and ADA-AA.

17 **67.** On the date of December 23, 2021 defendant announced to the plaintiff, and all
18 employees, that it would begin implementing a policy known as its "COVID" vaccine policy.

19 **68.** The defendant stated that the purpose and intent of the policy was to "prevent the
20 spread of COVID".

21 **69.** The defendant informed the plaintiff that the policy was a condition of continued
22 employment with the plaintiff.

23 **70.** The defendant's so-called "COVID" policy includes accommodations, or measures
24 and practices such as wearing a surgical mask, remaining six feet apart from other
25 employees, taking specific vaccines pertaining to the so-called "COVID disease", disclosing
26 medical records and medical history, and submitting to medical examinations and the
27 collection of plaintiff's vital statistics.

28 ² Title 21, Chapter 9 V, Part E §360bbb-3a. Emergency use of medical products.

1 **71.** The defendant never provided notice of any kind to the plaintiff, advising the plaintiff
2 as to the manner in which such accommodations are related to her essential job function.

3 **72.** In fact, none of the accommodations are related to the plaintiff's essential job function
4 because she was able to continue performing her essential employment duties without
5 participating in the defendant's so-called "COVID" policies.

6 **73.** The defendant failed to identify or describe any set of facts establishing that the
7 plaintiff's good faith refusal to participate in the defendant's so-called "COVID" policy would
8 have created any undue financial hardship.

9 **74.** The defendant failed to identify or describe any set of facts establishing that the
10 plaintiff's good faith refusal to participate in the defendant's so-called "COVID" policy would
11 have fundamentally altered its normal operations. In fact, the defendant's so-called
12 "COVID" policy did in fact fundamentally alter its normal operations.

13 **75.** The defendant failed to identify or describe any set of facts establishing that the
14 disability its so-called "COVID" policy was intended to prevent was both transitory and
15 minor.

16 **76.** The defendant failed to establish any set of facts that the so-called "COVID" disease
17 is transitory because it has supposedly created a world-wide pandemic that began at the
18 end of the year 2019 and supposedly continues to this day, including new strains
19 (variations) and "long COVID" and "short COVID", all based upon the claim that these are
20 and have been since the end of 2019, deadly contagious diseases.

21 **77.** The defendant cannot now claim that such disability is "transitory", especially since it
22 is not acting upon any medical diagnosis, court order obtained by the Department of Health
23 regarding the plaintiff or individualized assessment establishing that the plaintiff individually
24 is a direct threat.

25 **78.** Moreover, defendant failed to identify or describe any set of facts establishing that
26 the disability its so-called "COVID" policy is intended to prevent is both transitory and minor.
27 If the so-called "COVID" disease does exist, it is certainly not minor as anyone can
28 obviously conclude by the news and government announcements of a public health

1 emergency. Either way, the defendant has failed to establish any set of facts that the
2 disability its policy seeks to mitigate, is not both transitory and minor.

3 **79.** The defendant's so-called "COVID" policy was not uniformly or universally applied to
4 the plaintiff once she gave notice that she was a qualified individual with a disability and that
5 she was regarded as having a disability.

6 **80.** The plaintiff is not required to discuss the nature of such disability and because such
7 disability is not job related and the plaintiff is not requesting reasonable modifications, again,
8 she is therefore not required to discuss the nature of such disability, no more than she is
9 required to participate in the plaintiff's so-called "COVID" policies.

10 **81.** Not only is the defendant's so-called "COVID" policy is not rational, and not
11 implemented with any legal authority or duty whatsoever, there is no rational basis to act as
12 if every single member of a community (e.g. all employees of the defendant) suddenly have
13 the same exact illness (disability) and that without any examination of anyone, everyone
14 would benefit from the same exact medical treatment and that non-skilled and unlicensed
15 individuals should impose such intervention upon everyone at the same time because of
16 some commentary on a website (e.g. CDC, EEOC, etc.) that says it's a good idea, while
17 simultaneously disclaiming such commentary as valid legal or medical advice. In fact, this
18 practice, regarding oneself and others as having an illness without any diagnosis, and then
19 seeking to treat everyone with the same medical intervention without any diagnosis, is
20 defined as a mental illness in the Fifth Edition of the Diagnostic and Statistical Manual for
21 Mental Health. The defendant's so-called "COVID" policy demonstrates that those seeking
22 to impose it upon employees and the plaintiff are suffering from an un-diagnosed mental
23 illness and have demonstrated that each of them are a danger to themselves and others
24 and must be ordered to submit to an involuntary mental evaluation.

25 **82.** A plaintiff meets the burden of proving discrimination by showing that she falls within
26 a protected group, that she is qualified for the position she holds, that she was subject to an
27 adverse employment action and that the adverse employment action was taken under the
28 circumstances giving rise to the facts which constitute unlawful discrimination.

1 **83.** Plaintiff identified herself as being within a protected group and engaged in a
2 protected activity upon giving the defendant notice that she is regarded as having a
3 disability and that she is a qualified individual with a disability and then refusing the
4 defendant's accommodations based upon her good faith belief.

5 **84.** Beginning from the moment she gave such notice to the defendant, the plaintiff
6 suffered adverse employment actions by the defendant.

7 **85.** Despite having knowledge of plaintiff claiming protected status under the ADA and
8 ADA-AA, the defendant continues attempting to impose its so-called "COVID" policies upon
9 the plaintiff.

10 **86.** Defendant continues ignoring and denying her claim of disability and continues
11 reprimanding her, on a daily basis, for refusing its accommodations as alleged in the
12 plaintiff's affidavit. All written communications are attached as Exhibit A.

13 **87.** Defendant's responses to the requests made by plaintiff to cease the discrimination
14 and harassment were in fact non-responsive, dismissive or harassing; a true and correct
15 copy of each written communication is included with Exhibit A.

16 **88.** Defendant's "COVID-19 policies and procedures" classified plaintiff in such a way
17 that plaintiff's employment opportunities are adversely affected and limited because
18 defendant would not permit plaintiff to do her job without first submitting to defendant's
19 accommodations ("mitigation measures").³

20 **89.** Defendant required non-job-related medical examinations of plaintiff that were not
21 consistent with business necessity.

22 **90.** Defendant made disability-related inquiries⁴ of plaintiff that were not consistent with
23 business necessity.

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³ prohibited by 29 CFR § 1630.5

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⁴ Prohibited by 42 U.S.C. §12112(d)(4); 29 CFR §1630.13 (b)

1 **91.** An employer is entitled only to the information necessary to determine whether the
2 employee can perform the essential functions of the job⁵ with or without reasonable
3 accommodations.

4 **92.** Plaintiff is qualified for the job and both willing and able to continue performing her
5 employment duties and that the defendant's so-called "COVID" policy is not related in any
6 way to her essential job functions.

7 **93.** Defendant has failed to conspicuously disclose or gave legally adequate notice that
8 complying with the COVID-19 mitigation measures ("accommodations") are an **essential**
9 **function** of the job of Health Promotion Specialist; and these measures have never
10 previously been an essential function of plaintiff's job.

11 **94.** Plaintiff claimed her right not to provide any medical information that is not related to
12 the performance of her job duties.

13 **95.** If plaintiff had previously made at least one request for reasonable modifications,
14 plaintiff has since withdrawn such request.

15 **96.** Additionally, the so-called "vaccines" that are being promoted as vaccines do not
16 actually prevent transmission or infection of any contagious disease, specifically regarding
17 the so-called "COVID-19" or "SarsCOV2" purported "diseases".

18 **97.** The ADA and ADA-AA also protects individuals such as plaintiff for whom submitting
19 to certain accommodation measures would create impairments. The accommodations
20 include, but are not limited to, taking experimental injections under Emergency Use
21 Authorization (EUA) which are being promoted as "vaccines" but which are not legally
22 vaccines; submitting to repetitive, non-job-related medical examinations (nasal tissue
23 testing, temperature checks); being placed under isolation, segregation and quarantine
24 without due process; using medical devices for mitigation measures⁶ (masks); disclosing
25 plaintiff's medical records and history for non-job-related matters and participating in clinical
trials and epidemiological experiments as a condition of employment.

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⁵ 29 CFR 1630.2(n)(2) definition "Essential Function": "(i)the reason the position exists is to perform that
function."

28 ⁶ Section 201(h) Food, Drug & Cosmetic Act

98. Plaintiff requests that the court take judicial notice of the official mortality rates of the State of Pennsylvania and the United States for the years from 2017, 2018, 2019 and 2020 in which the standard deviation is zero, the very definition of no verifiable “pandemic”.

99. Plaintiff has been damaged by defendant's violation of the ADA and ADA-AA and has suffered damages, lost opportunities and benefits, and emotional distress.

100. The conduct of defendant and its agents and employees proximately, directly, and foreseeably, injured plaintiff, including but not limited to, emotional pain and suffering, humiliation, inconvenience, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

101. The conduct of defendant was so willful and wanton and in such reckless disregard of the statutory rights of plaintiff so as to entitle her to an award of punitive damages against defendant, to deter it, and others, from such conduct in the future.

102. As a result of defendant's actions plaintiff has experienced discrimination, segregation, isolation.

103. Plaintiff is entitled to any and all relief permitted under the ADA and ADA-AA, 42 U.S.C. § 12117(a), including equitable relief.

COUNT II

RETALIATION UNDER THE ADA and ADA-AA

104. The ADA and ADA-AA also prohibits employers from retaliating against individuals who oppose discriminatory activities or who make charges, testify, assist, or participate in any manner in an investigation, proceeding or hearing under the ADA, Title 42 U.S.C. § 12203 and 29 CFR Parts 1630.12(a) and (b) and Parts 1630.13(b), (c), (d) and Part 1630.14(c).

105. Plaintiff incorporates each of the pertinent statements of fact above; and the pertinent allegations contained in the paragraphs 1 through 63 and the plaintiff's supporting affidavit which is also re-alleged and incorporated herein by reference.

106. In March of 2021, defendant began unceasingly to retaliate against plaintiff despite plaintiff's reasonable good faith belief that she was exercising protected opposition to discrimination and claiming rights protected under the ADA and ADA-AA.

107. Upon giving defendant notice that she was regarded as having a disability and that she was a qualified individual with a disability, the defendant began retaliating against the plaintiff by imposing punitive measures upon her for her good faith refusal to participate in the defendant's offered accommodations.

108. Defendant retaliated by seeking to impose its so-called “COVID” policy upon the plaintiff just like it had before receiving plaintiff’s notice of disability, as if defendant never received such notice.

109. Plaintiff was threatened more than once to be suspended with unpaid leave, and terminated because of her unvaccinated condition.

110. The defendant imposed pecuniary measures, adverse employment actions, upon plaintiff which included reprimanding her, isolating her from other workers and from her normal employment station.

111. Each of the foregoing adverse employment actions resulted from every effort the defendant undertook to coerce the plaintiff into submitting to its so-called “COVID” policy accommodations.

112. Each adverse employment action described herein was causally related to plaintiff's good faith refusal to comply with defendant so-called "COVID" policies.

113. Each adverse employment action took place within moments of, and in direct response to, plaintiff expression of her good faith refusal to comply with defendant's so-called "COVID" policy.

114. Defendant required the plaintiff to disclose her medical information which was not job related.

115. Plaintiff has successfully stated a violation of the Act simply because she has been subjected to an action prohibited under the law because of perceived physical impairment.

1 **116.** Defendant continued to threaten the plaintiff with suspension, dismissal, and
2 termination even after it was aware of a pending EEOC investigation and plaintiff's protected
3 opposition status.

4 **117.** Defendant coerced plaintiff to submit to the accommodation measures, medical
5 interventions and examinations and other health control measures, even though defendant
6 was duly advised by plaintiff that she was not subject to any health control measures by any
7 court order, and that the defendant was not empowered by any court order or other legal
8 duty to impose such interventions, examinations or control measures upon plaintiff.

9 **118.** Despite having knowledge of plaintiff claiming protected status under the ADA and
10 ADA-AA, defendant threatened with termination of plaintiff's employment due to plaintiff's
11 opposition to discriminatory policies and procedures.

12 **119.** Defendant encourages employees to harass plaintiff with repetitive emails,
13 intimidating interactions and threats of termination.

14 **120.** The defendant's retaliation was directly related to plaintiff engaging in protected
15 activity under the ADA.

16 **121.** Defendant also failed to give notice of plaintiff's right to refuse defendant's
17 accommodations under the ADA and ADA-AA⁷.

18 **122.** Defendant failed to advise plaintiff of her right to informed consent, which is
19 considered interference with the exercise of plaintiff's rights under the ADA and ADA-AA.

20 **123.** At all times material to this action, defendant interfered with the exercise of plaintiff's
21 rights under the ADA and ADA-AA.

22 **124.** As a result of defendant's intentional, willful and unlawful acts of retaliating against
23 plaintiff by threatening unpaid leave and interfering with plaintiff's rights to refuse
24 defendant's accommodations under the ADA and ADA-AA, plaintiff has suffered injury and
25 damages.

26 **125.** The injury suffered by plaintiff is thereby concrete and particularized and it is actual
27 and imminent. The injury alleged in the complaint, including the pleading and exhibits,

7 29 CFR Part 1630.9 (d) & (e)

1 clearly sets forth a set of facts that actually occurred and are not conjectural or hypothetical.
2 The injury described therein is at least fairly traceable to the challenged action, conduct and
3 policies of defendant.

4 **126.** The harm (injury) already suffered by plaintiff includes, but is not limited to, having to
5 choose between waiving rights to: medical privacy, informed consent, refusal to take part in
6 clinical trials, and be free of discrimination and retaliation OR having plaintiff's employment
7 terminated. Once violated, these rights cannot be recovered.

8 **127.** Defendant's policies and procedures demonstrated soundly and convincingly that it
9 intends to inflict future harm against plaintiff based upon perceived disability; it fully intends
10 to continue these policies and it fully intends to continue retaliating against plaintiff as
11 alleged herein.

12 **128.** As a result of defendant's actions the plaintiff has experienced retaliation, coercion,
13 interference, termination and disruption in plaintiff's career.

14 **129.** Defendant's efforts were to terminate plaintiff, rather than to provide equal access,
15 per defendant's duty, and were not objectively or subjectively in good faith, therefore plaintiff
16 is entitled to liquidated damages or other monetary damages, including punitive damages to
17 the extent available.

18
19 **DEMAND FOR JUDGEMENT FOR RELIEF**

20 **WHEREFORE**, Plaintiff expressly reserves the right to amend her complaint at or
21 before the time of trial of the action herein to include all items of damages not yet
22 ascertained, and demands all applicable relief including, but not limited to:

- 23 a. Judgment in plaintiff's favor and against defendant for violation of the anti-
24 discrimination provisions of the ADA and ADA-AA;
25 b. Ordering defendant to comply with the requirements of Title I of the Americans
26 with Disabilities Act, 42 U.S.C. §12101; and,

- 1 c. Take such affirmative steps as may be necessary to prevent the recurrence of
2 any discrimination, retaliation, coercion, interference and intimidation and to eliminate,
3 to the extent practicable, the effects of such conduct.
- 4 d. Reinstatement, or, in the alternative, front pay in the event reinstatement is not
5 practical;
- 6 e. Judgment in plaintiff's favor and against defendant for actual and
7 compensatory damages, including lost earnings, back pay, front pay, and/or all actual
8 monetary losses suffered as a result of defendant's conduct;
- 9 f. Judgment in plaintiff's favor and against defendant for plaintiff's reasonable
10 court fees and litigation expenses;
- 11 g. Judgment in plaintiff's favor and against defendant for punitive damages; and
- 12 h. Assess a civil penalty against the defendant in an amount authorized by 42
13 U.S.C. §12101 to vindicate the public interest and make the plaintiff whole; and
- 14 i. An order granting such other and further relief as this Court deems just and
15 equitable under the circumstances of this case.
- 16 j. Plaintiff demands a jury trial.

17 DATED this 15th day of August 2022.


18 Shelly Beard, Plaintiff
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